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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

In re K.S. et al., Persons Coming Under the Juvenile
Court Law.

C090285

BUTTE COUNTY DEPARTMENT OF
EMPLOYMENT AND SOCIAL SERVICES,

(Super. Ct. Nos. 18DP00120,
18DP00121, 18DP00122, &
18DP00123)

Plaintiff and Respondent,

v.

G.S. et al.,

Defendants and Appellants.

E.S. (mother) and G.S. (father), parents of the four minors, each appeal from the juvenile court's orders at the contested six-month review hearing continuing the four minors in out-of-home placement and providing both parents with additional

reunification services. (Welf. & Inst. Code, §§ 366.21, 395.)¹ Each parent joins the other's claims and contends the court erred in finding reasonable services were provided.

The Butte County Department of Health and Human Services (Department) argues the parents' claims have been rendered moot by the juvenile court's recent order returning the minors to mother's care under a plan of family maintenance and continuing reunification services to father,² leaving this court with no other effective relief if we were to find reversible error. In any event, the Department argues, the parents' claims lack merit.

We will dismiss the appeals as moot.

FACTUAL AND PROCEDURAL BACKGROUND

The four minors, K.S. (9 months old), L.S. (2 years old), J.S. (3 years old), and G.S. (3 years old) (minors), came to the attention of the Department on April 24, 2018, when Department of Fish and Wildlife officers executed a search warrant regarding the possession and sale of illegal exotic reptiles on the parents at their motorhome. Officers found numerous items which posed a risk to the health and safety of, and were accessible to, the minors, including: clutter and trash on most livable spaces (limiting the ability of the four young minors to move about); raw slices of unrefrigerated pork laying out on top of storage bins in the shower; two marijuana smoking devices; exposed wires; extension cords; and kitchen knives. Additionally, there was no refrigeration, no access to clean water, and only a small air conditioner in the motorhome. All four minors, who were locked in a room with bungee cords, had cuts and bruises on their heads and faces and feces on their faces. They were all undressed and had limited speech capabilities. L.S. had a puncture wound on the back of his head, which mother claimed was due to him

¹ Undesignated statutory references are to the Welfare and Institutions Code.

² See the Department's request for judicial notice of the juvenile court's January 30, 2020 orders after the continued six-month review hearing, filed February 25, 2020.

banging his head on the counter. Mother stated she and father were unemployed. She admitted she and father both smoked marijuana but never in front of the minors.

Initial Dependency Petitions

On April 26, 2018, the Department filed dependency petitions on behalf of each of the four minors pursuant to section 300, subdivision (b), alleging the parents' failure to supervise or protect the minors, failure to provide the minors with adequate food, clothing, shelter, or medical treatment, and inability to provide regular care for the minors due to the parents' mental illness, developmental disability, or substance abuse.

The minors were ordered detained on April 30, 2018, at which time the court ordered reunification services for both parents. At the time of detention, the minors were almost completely nonverbal and had concerning social, emotional, and speech delays, as well as self-harm behaviors.

Second Amended Dependency Petitions

On May 22, 2018, the Department filed second amended petitions as to all four minors, modifying and supplementing the allegations. In particular, the petitions alleged the "parents state the motor home was only a temporary shelter for the family until they could get more stable, appropriate housing for their family"; the "father self reports that he suffers from [attention deficit hyperactivity disorder], [posttraumatic stress disorder,] and anxiety. Father states that he has been treating this condition with [tetrahydrocannabinol] and has never been offered mental health services from Children's Services or the Children's Assistance Program. Father states that he is presently following through with mental health services and has stopped smoking [tetrahydrocannabinol]"; and "the [minors] were observed with numerous scratches, cuts and human bites covering their upper torso, head and face."

At the May 24, 2018 jurisdiction hearing, the court sustained the second amended petitions.

According to the disposition report filed June 13, 2018, the parents reported they cleaned their motorhome and they planned to move into a two-bedroom mobile home with a fenced yard sometime the following month. The parents failed to attend a scheduled meeting with the social worker to discuss the family's needs and create case plan objectives. Father stated he did not have a drug or alcohol problem and he was no longer using marijuana to treat his attention deficit hyperactivity disorder (ADHD), posttraumatic stress disorder (PTSD), and anxiety.

Mother also stated she stopped using marijuana pursuant to the court's order. She claimed she did not know it was illegal to sell her reptiles. She stated she cleaned the house throughout the day and the marijuana was out of reach of the minors but, for some reason, the marijuana appeared to be on the table at the time of the detention. Mother also claimed she cooked every day and the minors were always fed and bathed. She stated she was in the process of scheduling appointments for the minors to receive developmental, dental, and medical services. All four minors reportedly had behavioral problems of varying degrees, and the three eldest minors had developmental issues.

The disposition report stated both parents' services included a substance abuse program; parenting classes; Assembly Bill No. 429 (2001-2002 Reg. Sess.) (Assembly Bill 429) services to assist with employment, housing, education, counseling, and other related services; and drug testing. It was noted that both parents either tested positive or failed to test for tetrahydrocannabinol (THC) in April and May 2018 but tested negative for all substances on June 8, 2018. According to the case plan objectives, both parents were tasked with keeping the house clean and maintaining a stable, clean, safe, and healthful home with running water, utility services, and adequate sleeping arrangements for each individual in the home. The case plan provided a number of housing resources, including Section 8 and low-income housing, Esplanade House, tenant-based rental assistance, and Assembly Bill 429.

The Department noted its concerns regarding the parents' ability to maintain appropriate housing and abstain from drug use, their failure to provide developmental, mental, and emotional services for the minors, and their continued denial of the reasons for detention. The Department determined none of the minors could be returned to their parents' care due to the parents' extensive child welfare history dating back to 2011, including "deplorable living conditions, homelessness, the children not meeting developmental milestones[,] and the mother['s] refusal for assistance to get the children into services." It was recommended that the minors remain in out-of-home placement and the parents be ordered to comply with their case plan agreement.

On June 21, 2018, the court ordered the four minors removed from the parents' care, and again ordered reunification services for the parents in accordance with the case plan agreement. The court also ordered supervised visitation.

The Department filed a six-month status review report on December 3, 2018. Two of the minors were placed with the paternal grandmother and the remaining two were placed together in a foster home. The parents were reportedly still living in the motorhome from which the minors were detained eight months earlier, and father would not allow the social worker to enter the home to complete an assessment. There were three cats and a dog inside the residence and the observable living area was covered in trash and clutter obscuring the floor beneath.

Mother reported she was employed part-time for an in-home support service, but she did not have reliable transportation. Father reported he was "significantly impaired" by pain and other issues associated with a brain cyst, he was unable to work, and he was awaiting treatment and possible surgery.

The parents were provided case management services, mental health services, parent education, child family team (CFT) meetings, and random substance use testing. Mother's case plan review was completed on October 16, 2018. The social worker reported meeting with mother in-person as well as communicating frequently via text

message, e-mail, and telephone and before and after visitation to address any questions or concerns mother might have regarding the case. While mother completed her parent engagement counseling and nurturing parenting program, the instructor noted it was “ ‘not clear as to the extent which the subject matter will be integrated into specific parenting-oriented goals and focused changes’ ” for mother. Mother also completed intensive group counseling, however there were concerns regarding her minimal acceptance of her part in the neglect of the minors. She consistently tested negative for all substances. With regard to housing, mother reported she mailed an application to the Esplanade House. The Department repeatedly requested that mother check on the status of her application in order to allow her to work with the Department to obtain any documentation necessary to complete the application process.

Father’s case plan review also was completed on October 16, 2018. Father was generally hostile, agitated, disengaged, and uncooperative during his interactions with the Department, at times requiring mother to calm him down so she could continue speaking with the social worker. Father completed parent engagement counseling and the nurturing parenting program. It was not recommended that father participate in intensive group counseling due to his self-described anxiety in group environments. The instructor felt father needed individual counseling. Father indicated he suffered from several mental health issues, including anxiety and PTSD, however he remained unwilling to allow verification of his participation in therapy through Butte County Behavioral Health (Behavioral Health). He eventually agreed to meet with a new therapist there and to sign a release to allow the Department to obtain information from his therapist. However, he would not allow access to his previous therapist or any other information regarding any of his previous care. Thereafter, father signed a release but did not acquire a new therapist or participate in any verifiable mental health services. Father consistently tested negative for all substances. He requested that he be allowed to use marijuana for pain management but failed to write a letter to the court explaining the reasons for his request

as instructed. Regarding housing, father was included on mother's application to Esplanade House but would not discuss the application with the social worker. Both parents were participating in supervised visitation with the minors.

The Department noted father had been uncooperative and combative and had shown little to no behavioral changes or accountability for the lack of safety and an unhealthy environment in the home. Despite completion of her services, mother had shown minimal behavioral changes and a lack of accountability as well, arguing there was no reason for the minors to be removed. Given the extreme vulnerability of the minors due to their young ages, the high need for intervention, and their lack of speech, the Department recommended the court terminate the parents' reunification services and set the matter for a section 366.26 hearing.

Six-month Review Hearing

At the December 13, 2018 six-month review hearing, the Department changed its recommendation to continue reunification services to the parents and set a 12-month review hearing. The change in recommendation was due to the parents' compliance with certain aspects of their respective case plans. Over the parents' objection, the court granted the Department's request for authorization for psychological evaluations for both parents. The social worker reported that mother had updated her on the status of the Esplanade House application only that morning prior to the hearing. The court continued the matter at the parents' request, ordered that the parents get rid of all animals in the home, and further ordered the parents to allow the Department access to the home later that afternoon for an inspection.

At the continued six-month review hearing on January 10, 2019, the social worker reported the parents allowed her into the home to inspect following the prior hearing and the home was cleaned up. However, the social worker made an unannounced visit the following week and found some of the original issues were present, including that the sink was full of dirty dishes and there were "a lot" of cockroaches present in the home.

Mother's counsel argued the parents were not being provided reasonable services due to the fact that they had been allowed only two supervised visits per week since the beginning of the case. The Department argued father had not yet applied for admission into Esplanade House and mother's application could not proceed until the Department determined the minors could be returned within 30 days. The court ordered the parents to sign medical releases to allow the Department to obtain medical records regarding the medical issues father claimed were preventing him from getting a job or helping supervise the minors and continued the hearing.

At the continued hearing on February 7, 2019, the Department reported the parents' home was cleaner upon recent inspection. Mother's counsel reported the parents wanted to go to Esplanade House, but father stated he was not going. Father also stated he was not going to participate in reunification services. The social worker reported that a visit between the parents and all four minors went well and, moving forward, visits would occur at least once a week with all four children. However, the social worker reported that, due to the behavioral issues (e.g., wetting himself prior to, during, and after visits with the parents) of the minor, L.S., visits with him should be separate.

It was also reported that father had yet to sign the release of medical information. The court again ordered father to submit a release for medical records. At mother's request, the court set the matter for a contested combined six/twelve-month review hearing on April 11, 2019, to discuss, among other things, the reasonableness of services and visitation.

The court granted parents' motion to be allowed to proffer an expert witness to assist parents' counsel at the contested review hearing to, among other things, evaluate whether reunification services offered to the parents have been reasonable. The court also granted the parents' motion to continue the contested hearing.

March 25, 2019 Updated Case Plan

An updated case plan was filed on March 25, 2019. Its objectives mirrored those in the original case plan. The plan was signed by the parents, acknowledging they participated in the case plan development, agreed to participate in the services outlined in the plan, and received a copy of the plan.

April 8, 2019 Addendum Report

The Department filed an addendum report on April 8, 2019, again recommending that the court terminate the parents' reunification services and set a section 366.26 hearing. According to the report, the parents were still living in the same residence, with some improvement in cleanliness over the prior several months. There were no longer any animals in the home and a previous sewage spill covering the lawn and walkway was no longer an issue. However, the Department had concerns that the parents had yet to take any appropriate steps to change their housing situation, had not kept appointments or communicated with their Assembly Bill 429 worker, and had refused to participate in a recommended housing program. Father continued to refuse to participate in the Esplanade House program or add himself to mother's application.

The Department was also concerned that the parents had not attempted to look for full-time employment and did not have a stable source of income. Neither parent was employed. The social worker had medical records confirming father had a small cyst on the back portion of his brain but had yet to speak with the medical professionals listed on father's release form or to the Behavioral Health therapist treating father. The social worker was informed that mother was terminated from her in-home support service position in December 2019 and was being investigated by the fraud department for payments received thereafter.

The minors' significant issues at detention (i.e., social, emotional, & speech delays & self-harm behaviors) had "drastically improved" under the care of the Department,

with all four minors receiving developmental services and numerous assessments to rule out cognitive delays, as well as treatment for severe dental problems.

The addendum report noted that, while mother was willing to participate in services and to communicate, she was unable to separate herself from father in order to keep the minors safe or to accomplish her own goals with respect to the minors. Mother's psychological evaluation indicated mother suffered from unspecified personality disorder, including a dependence on father, and there were concerns about her ability to appropriately utilize services while maintaining a relationship with father.

The report noted that father had been aggressive, hostile, and dismissive of services throughout the case. Father's statements that he saw no issues with the way the minors were being cared for and no reason the minors should have been detained gave the Department concern that the minors would be at risk of severe neglect if returned to the parents' care. Father's psychological evaluation indicated that, given his neuropsychological disorder mental health diagnosis and his other mental health issues, he was " 'unable or extremely unlikely to be able to appropriately use the services provided by [the Department].' " While it was unknown whether father would be able to utilize services after surgery for his brain cyst and recovery, the Department was not confident "these complicated issues can be addressed within the constraints of the Court timelines for this case, if at all."

Status Review Report

The Department filed a status review report on June 21, 2019, again recommending the court terminate reunification services and set the matter for a section 366.26 hearing. The report detailed the Department's attempts to meet with or speak to the parents regarding the case, visitation, their respective progressions in services, and barriers to completing those services.

Mother completed the first half of her parenting classes and was enrolled in child endangerment classes through probation. Mother's psychological evaluation concluded

she needed to attend and participate in psychotherapy treatment for her “many underlying mental health issues.” It was noted that, while the social worker referred mother to and encouraged her to attend ongoing psychotherapy, mother was not receiving any mental health treatment.

Father completed the first half of parenting classes with mother and was scheduled to complete the second half. Father’s psychological evaluation concluded he needed specialized psychotherapy to address “his many mental health issues.” While the social worker spoke with father many times about concerns for his mental health and referred father to treatment services on several occasions, father was not receiving any mental health treatment. He previously saw a clinician at Behavioral Health but with sparse attendance. The clinician noted father “was not progressing in his treatment” and was “placing blame on others.”

The parents’ visitation with the minors was going well; however, there were continued concerns about L.S., who would shut down and wet himself during and after visitation, act out in protest, and engage in self-harm to the point of injuring himself. It was noted that L.S. did not exhibit these behaviors at any other time.

Regarding the parents’ perception of their needs, mother felt she needed to get into Esplanade House and take classes to help her learn how to cope with children with disabilities. Father felt he needed instruction on how to help L.S. cope with his behaviors. He felt overwhelmed by the amount of services in which he was required to participate, and he was not able to seek employment or better himself due to the schedule. Father also felt he needed better communication from the Department.

The Department concluded the minors could not safely be returned home to the parents, who were “still in an almost identical situation to that from which the children were removed.” The Department expressed serious concerns regarding father’s untreated mental health issues, his inability to understand the severity of his neglect of the minors, and his unwillingness to participate in recommended mental health treatment, all of

which placed the minors at risk of future neglect. The Department was also concerned that, although mother had the ability to complete services, her dismissive parenting and lack of implementation of new skills placed the minors at risk. There were also concerns about mother's state of mind and mental health, and her support of father despite father's "negative impact on this case."

June 24, 2019 Contested Six-month Review Hearing

The contested hearing was continued numerous times, eventually commencing on June 24, 2019, fourteen months after the minors were detained. Following an unrecorded settlement conference between the parties, the court noted for the record that the Department was still recommending that the court terminate services and set the matter for a section 366.26 hearing. Mother's counsel stated mother was "willing to do exactly what the Court had asked, that she would go into intensive counseling, that she would do the PCIT [(parent child interaction therapy)], and supervised visits in the park, and that if [father] was not cooperative to the point of what the Court wants, that she would separate from the father." Father's counsel stated father would do whatever the Department asked him to do and he "agreed to address his medical issue," "do intensive counseling," and "do PCIT." Counsel noted she would assist father if he needed help getting health insurance. Counsel also noted that father loved the minors and was "very anxious to have his visits in the community" with them.

Social Worker Spann

Social Worker Jessica Spann testified the parents and their attorneys participated in the development of the updated case plan. Mother complied with some parts of the case plan but not others. Father had not complied with the updated case plan.

Mother told Spann she was taking antidepressant medication, but was unable to meet with a counselor for psychotherapy because she was participating in too many services, including parenting classes and visitation. Mother was also participating in a

child endangerment class through misdemeanor probation as a result of her recent conviction for child endangerment.³

Spann testified the parents were still living in the travel trailer in which they lived at the time of detention. They had been unable to maintain the home free of cockroaches. Spann testified she talked with the parents since December 2018 about applying for space in Esplanade House. However, the parents had another housing plan and mother was the only one willing to consider Esplanade House. Father stated he wanted to stay in the travel trailer. Spann explained that the parents' plan was not appropriate because Esplanade House is designed to get people back on their feet and into supportive housing to allow them to eventually transition into appropriate housing, not as a temporary go-between.

Spann opined that it was not safe to return the minors to mother because mother had untreated mental health issues and vacillated between staying with father or leaving him in order to keep the minors safe.

Spann testified father was adamant throughout the case that the minors should not have been detained and there was nothing wrong with his parenting. Although father saw a therapist through Behavioral Health, that therapy stopped because, according to his therapist, father was not progressing in his therapy, he attended only intermittently, and was unwilling to address any of his issues.

Father participated in a psychological evaluation. The evaluator recommended father participate in psychotherapy and undergo treatment for his brain cyst, which father identified as a possible obstacle to his participation in services. Spann testified she always attempted to accommodate father's symptoms from the cyst, such as dimming the lights and speaking quietly and clearly. She stated that, following the court's order,

³ Father's counsel stipulated that father had also been convicted of child endangerment in April 2019 and was on misdemeanor probation.

father signed a release allowing Spann to speak with his counselor at Behavioral Health. Spann testified father had not participated in the recommended psychotherapy. She noted she could not refer father to a specialist without a signed release, and father was unwilling to discuss his needs with her.

Spann opined that it was not safe to return the minors to father due to his severe mental health issues and childhood trauma which had not been addressed, and because father did not see anything wrong with his parenting or care for the minors and did not see any reason why the minors were detained.

Spann stated she would not be supportive of the parents' willingness to move to Esplanade House at this point in the proceedings because Esplanade House was "for families who are ready to go into reunification" and she did not feel this family was ready to reunify. When asked whether there was a substantial likelihood the minors would be returned by the 12-month review period, Spann responded, "No. We are already past that point."

Dr. Richard Palmer

After the court received his report into evidence and identified him as an expert in psychology, Dr. Richard Palmer testified he agreed with a previous diagnosis by Dr. Quaytman that father had a neuropsychological disorder, specifying it as a mild autistic spectrum disorder. Dr. Palmer felt father's disorder interfered more with his behavior in court and with the Department than it did in his interactions with the minors. Dr. Palmer opined that, in order for the minors to be returned to the parents, additional interventions would be necessary, such as education and modeling regarding how to work with special needs children and parent-child interactive "theraplay." He also felt the parents needed stable housing such as Esplanade House.

Dr. Palmer placed housing at the top of the list of services to be provided to the parents. He was aware, however, that for the majority of the case father was very resistant to securing different housing. He acknowledged that it was difficult for the

Department to provide some of the services he recommended because it did not have father's autistic spectrum disorder diagnosis until a week before the hearing. It was Dr. Palmer's understanding that, due to limited funding, the Department was not able to refer the parents to parent child interaction therapy (PCIT). He was also aware of the Department's general policy not to offer PCIT to a family unless the child's return is imminent; he disagreed with the Department's position that there could be potential detriment if PCIT were otherwise offered and the child was not returned home.

When asked what services were available but not offered to the parents, Dr. Palmer identified specialized services for the special-needs minors (particularly for L.S.'s behaviors around visits) such as "theraplay," PCIT, and working with a psychologist. He recommended, as additional services to be provided to the parents, stable housing, PCIT, education for how to work with a special-needs child, and counseling (in father's case, someone with expertise in both trauma and autistic spectrum disorder). He identified three psychologists who could provide those specific services.

Dr. Palmer did not agree with Dr. Quaytman's diagnosis that mother had severe mental health issues.⁴ He was aware that she was diagnosed with reactive attachment disorder, PTSD, and depression, but he did not believe that rose to the level of severe mental health issues. When asked whether it was concerning to him that mother was not in therapy, Dr. Palmer said he would prefer her to be doing so.

June 24, 2019 Initial Findings and Orders

The court made a preliminary finding that the Department provided mother with reasonable services, did not provide father with reasonable services for a period of 60

⁴ Dr. Quaytman's evaluation concluded that mother "presents with serious psychological issues." The question posed to Dr. Palmer was framed in terms of Social Worker Spann's interpretation of Dr. Quaytman's evaluation, which characterized mother as having "severe mental health issues."

days, and did not provide L.S. with reasonable services for a period of six months. As to father, the court noted the 60 days was attributable to the fact that father was only recently diagnosed with autism, and the Department “could [not] have seen this coming” or tailored services to address the diagnosis any sooner. The court continued the matter for a final ruling and a 12-month review.

July 25, 2019 Findings and Orders

On July 25, 2019, the court finalized the findings and orders made at the previous six-month review hearing. After hearing from counsel, the court issued its written findings and orders as to all of the minors except L.S. In particular, the court adopted the findings and orders as amended to indicate the parents’ progress in services was adequate; the Department provided reasonable services to mother and provided reasonable services to father but for a period of 60 days; and return of the minors to the parents would create a substantial risk of detriment to the minors’ well-being. The court ordered continued reunification services to the parents as discussed at the contested six-month review hearing, continued visitation, and continued out-of-home placement for the three minors. Based on the parties’ disagreement about whether the no-reasonable-services finding as to L.S. for six months also applied to the parents, the court ordered the parties to brief the issue and continued the matter as to L.S. to August 15, 2019.

August 22, 2019 Findings and Orders

The hearing regarding L.S. eventually occurred on August 22, 2019, at which time the court reiterated its earlier finding that the Department provided reasonable services to mother but did not provide 60 days of reasonable services to father. The court found the Department did not provide L.S. with reasonable services for six months, issued orders consistent with those findings, and continued the six-month review hearing for L.S. to September 19, 2019.

Mother and father filed separate appeals challenging the court’s July 25, 2019, and August 22, 2019, findings and orders.

Subsequent Proceedings

After parents' notices of appeal were filed, we took judicial notice of subsequent proceedings and relevant orders issued by the juvenile court as follows:

On January 30, 2020, at a second six-month review hearing, the court found mother's progress in services was adequate, father's progress in services was minimal, and the Department provided reasonable services to both parents. The court further found return of the minors to father created a substantial risk of detriment and ordered that the minors be returned to mother's care under a plan of family maintenance, with continued supervised visitation and reunification services to father.

On March 12, 2020, the Department filed supplemental petitions on behalf of the four minors pursuant to section 387, alleging mother failed to maintain a stable and suitable residence for the minors and failed to engage or participate in numerous aspects of her family maintenance plan. The petitions recommended the minors be removed from mother and placed with a relative.

The Department filed a section 387 report detailing mother's "rapid[] decline[] in her participation in services," including having been evicted from Esplanade House in February 2020 but refusing to leave, and noting mother had "reverted to her old patterns of poor parenting practices, lack of engagement in services, and an inability to maintain housing for her family."

On April 2, 2020, both parents filed notices of appeal from the juvenile court's January 30, 2020 order finding reasonable services had been provided by the Department.

On April 14, 2020, at a detention hearing on the section 387 petitions, the juvenile court ordered the minors detained.

On May 7, 2020, the court conducted a trial readiness conference in the current proceedings.

On May 7, 2020, we ordered supplemental briefing to determine whether the parents' appeals of the July 25, 2019 and August 22, 2019 findings and orders were moot.

DISCUSSION

“An appellate court will dismiss an appeal [as moot] when an event occurs that renders it impossible for the court to grant effective relief.” (*In re N.S.* (2016) 245 Cal.App.4th 53, 58-59 (*N.S.*).)

In supplemental briefing, the parents contend this court can and should grant them effective relief and argue this controversy is a matter of continuing public interest and is likely to recur with them or other families in the dependency system. They claim the juvenile court failed to properly assess services or make proper findings as to the reasonableness of those services, the result of which could adversely affect and prejudice them. They argue the services already provided would be counted toward the total reunification period and there would be little or no time remaining for additional reunification services. They further argue the reasonableness finding could negatively impact them in future application of the bypass provisions set forth in section 361.5 to deny them reunification services.

In its supplemental briefing, the Department argues the issue of the reasonable services finding at the June 2019 six-month review hearing has been superseded and rendered moot by the subsequent finding of reasonable services at the continued six-month review hearing on January 30, 2020. The Department argues that, as a result of the initial finding, the six-month review was continued in order to provide additional reunification services to the parents. Thereafter, on January 30, 2020, the court made a second finding of reasonable services and returned the minors to mother with family maintenance services for mother and continued reunification services to father. The Department argues reversal of the June 2019 finding would prematurely disturb the subsequent finding of reasonable services and create a situation where there were two contradictory orders in effect at the same time.

While the “court may exercise its inherent discretion to resolve an issue when there remain ‘material questions for the court’s determination’ [citation], where a

‘pending case poses an issue of broad public interest that is likely to recur’ [citation], or where ‘there is a likelihood of recurrence of the controversy between the same parties or others,’ ” this is not such a case. (*N.S., supra*, 245 Cal.App.4th at p. 59.) We conclude the parents’ appeals are moot.

The period for reunification services for a parent and child aged three or older when removed from parental custody is limited to 12 months from the date the child entered foster care. (§ 361.5, subd. (a)(1)(A).) “In order to extend services beyond that 12-month date and *up to* 18 months from the date of initial removal, the juvenile court was required to make the specific factual findings set forth in sections 361.5, subdivision (a)(3) and 366.21, subdivision (g)(1).” (*San Joaquin Human Services Agency v. Superior Court* (2014) 227 Cal.App.4th 215, 222; *id.* at p. 224 [juvenile court could not “make the necessary findings to extend services beyond 18 months, regardless of whether or not reasonable services were provided” because, under the facts of the case, “the statutorily required factors were not present”].)

We note there is a split of authority as to whether the juvenile court must observe the 18-month deadline for setting a section 366.26 hearing when reasonable services have not been provided. (See *In re M.F.* (2019) 32 Cal.App.5th 1, 21; *In re J.E.* (2016) 3 Cal.App.5th 557, 563-566 [court may continue the 18-month hearing under § 352 if it finds reasonable reunification services have not been offered or provided to the parents]; *Mark N. v. Superior Court* (1998) 60 Cal.App.4th 996, 1016 [“Legislature never intended a strict enforcement of the 18-month limit to override all other concerns including preservation of the family when appropriate”]; *In re Elizabeth R.* (1995) 35 Cal.App.4th 1774, 1795-1796 [“Since the Legislature has consistently and repeatedly fostered reunification, if at all possible,” relevant case law “aptly construes the statutory scheme to allow the juvenile court discretion, albeit limited, to extend the reunification period”].) However, we need not add our voice to the discussion given that the 24-month maximum for services ran on April 30, 2020, and a section 366.26 hearing had not been set as of the

May 7, 2020 trial readiness hearing. In any event, additional factual findings would have been required to extend reunification services beyond 18 months to the “ ‘maximum time period not to exceed 24 months’ ” after detention. (*San Joaquin Human Services Agency v. Superior Court, supra*, 227 Cal.App.4th at pp. 222-223.)⁵

Here, the minors, the eldest two of whom were three years of age, were detained on April 30, 2018. Thus, the parents were not entitled to reunification services after April 30, 2019, without specific factual findings made by the juvenile court. (§§ 361.5, subd. (a)(1)(A) & (a)(3), 366.21, subd. (g)(1).)

⁵ “The juvenile court may extend reunification services beyond 18 months from the date of initial removal, to ‘a maximum time period not to exceed 24 months after the date the child was originally removed from physical custody of his or her parent . . . if it is shown . . . that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that . . . there is a substantial probability that the child will be returned to the physical custody of his or her parent . . . within the extended time period, or that reasonable services have not been provided to the parent or guardian. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent . . . within the extended time period.’ (§ 361.5, subd. (a)(4).) [¶] Prior to extending services beyond 18 months from the initial detention, the court must find that there is a substantial probability the minor will be returned and safely maintained in the home during that time or that reasonable services were not provided. (§ 366.22, subd. (b).) It must *also* determine, by clear and convincing evidence, that additional reunification services are in the minor’s best interests *and* . . . that the parent has been making significant and consistent progress in a court-ordered residential substance abuse treatment program (*Ibid.*) Additionally, the court must find the parent (1) regularly visited the minor; (2) has made significant and consistent progress in resolving the problems that led to removal; and (3) has completed, or demonstrated the capacity and ability to complete, the substance abuse plan as evidenced by the provider’s reports, . . . and that the parent has demonstrated the ability to provide for the minor’s safety and well-being. (§ 366.22, subd. (b)(1)-(3).)” (*San Joaquin Human Services Agency v. Superior Court, supra*, 227 Cal.App.4th at pp. 222-223; accord, *In re N.M.* (2003) 108 Cal.App.4th 845, 852.)

By the time of the July 25, 2019 hearing, the minors had been detained for 15 months. (*San Joaquin Human Services Agency v. Superior Court*, *supra*, 227 Cal.App.4th at p. 222 [the period of detention is measured from the date the minors were taken into protective custody].) During that period of time, the parents were receiving reunification services. In fact, our review of the record reveals the parents received 25 months of reunification services from the date the minors were detained: 16 months as of the filing of their notices of appeal and an additional nine months (some of which included family maintenance services to mother) through the trial readiness conference on May 7, 2020. Taking into account the juvenile court's July 25, 2019 finding that father did not receive reasonable services for a period of 60 days, and the juvenile court's January 30, 2020 finding of reasonable services, the parents received a total of 23 months of reasonable services, far in excess of the 18-month maximum. Indeed, the most recent information of which this court took judicial notice indicates the parents are still receiving reunification services, in which case they have received the maximum amount of services permitted under any circumstance.

The parents argue they were not given an adequate opportunity to work toward reunification and they did not receive reasonable services for the entire review period. Even assuming for purposes of argument that this were true and both parents were entitled to six additional months of services, mother's service period reached the 18-month maximum on October 30, 2019, and father's service period (including the additional 60 days) reached the 18-month maximum on December 30, 2019. Therefore, as discussed above, the parents received an additional six months of services, providing them the 18-month maximum, and thereafter received at least six months more, bringing them to the 24-month maximum. Thus, even if we were to reverse the July 25, 2019 finding of reasonable services, the parents have already received services well in excess of the statutory maximum.

We are not persuaded by the parents' assertions of prejudice due to the fact that the first contested six-month review hearing was not ultimately held until some 14 months after the minors were detained and the second six-month review hearing some six months thereafter. As previously discussed, some of the delays were attributed to continuances requested by the parents and repeated attempts to obtain signed releases of medical information from them. In any event, the parents continued to receive reunification services throughout those periods, giving them an overabundance of time and opportunity to fully engage and complete those services.

Accordingly, we decline to address the issues presented by the parents related to the court's finding of reasonable services and grant the Department's motion to dismiss the appeals as moot. (*In re Pablo D.* (1998) 67 Cal.App.4th 759, 761; *In re Michelle M.* (1992) 8 Cal.App.4th 326, 330.)

DISPOSITION

The appeals are dismissed.

/s/
BUTZ, J.*

We concur:

/s/
ROBIE, Acting P. J.

/s/
KRAUSE, J.

* Retired Associate Justice of the Court of Appeal, Third Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.